Court moves to limit states' power

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The Supreme Court wrapped up its 2002-03 term last Thursday with two rulings that place crucial limits on government power over individuals.

The most high-profile case, Lawrence v. Texas, dealt with the constitutionality of state anti-sodomy laws. Texas is one of four states that ban sodomy among homosexuals, while nine states ban the practice entirely. Simply put, there is no place in a free society for a government to dictate which private, nonviolent sexual conduct among consenting adults is acceptable and which isn't. In a 6-3 ruling, justices agreed.

Inevitably, the decision quickly became fodder for the nation's cultural wars, with advocates of gay rights and gay marriage calling it a huge advance for their cause and their critics seeing it as a step toward making America a second Sodom. But the ruling, at its core, was about individual freedom from government control, not these larger, controversial causes.

In defending its law, Texas submitted a brief that spoke of the government's right to "require adherence to certain widely accepted moral standards and sanction deviation from those standards."

But Justice Anthony Kennedy's majority decision held that laws seeking to dictate "the most private human conduct, sexual behavior, and in the most private of places, the home" are an unconstitutional infringement on personal liberty. Kennedy is right and Texas is wrong; government should leave enforcement of moral standards to churches, civic organizations and families.

A second case decided Thursday, Stogner v. California, isn't so cut and dried. The court voted 5-4 to throw out a 1993 California law that retroactively extended the statute of limitations for some sex offenses.

A key goal of the law was to enable youthful victims of sexual abuse, particularly assaults involving authority figures such as parents or clergy, to file criminal charges long after the fact.

We can't stress more strongly our sympathy with these victims. Nevertheless, there is something deeply ominous about a government that can decide out of the blue to bring its daunting prosecutorial power to bear against the same individual who, a day before, with the same history, couldn't be prosecuted.

It was because of this specter that the authors of the Constitution barred federal and state governments from enacting laws that make an act criminal after the fact.